

REMARKS

The Office Action of May 4, 2005, that was made final, has been carefully considered. Claims 1-30 are pending in the application. An Amendment after Final Action was entered. Thus, some of the remarks pertaining to the objections may be duplicative in order to fully respond to the final action.

Claims 2, 9, and 15 were objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claims 1-7 were objected to under 35 U.S.C. §112, second paragraph, as being indefinite.

Claims 1-6 and 8-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,261,097 to Saxon (hereinafter referred to as the Saxon reference) in view of US Patent No. 5,911,066 to Williams et al. (hereinafter referred to as the Williams reference).

Claims 14-16, 18-26, and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,141,793 to Bryant et al. (hereinafter referred to as the Bryant reference) in view of the Saxon reference.

Claims 7 and 11-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Saxon reference in view of the Williams reference, and in further view of U.S. Patent No. 5,287,222 B1 to Shaylor (hereinafter referred to as the Shaylor reference).

Claim 17 was rejected under 35 U.S.C. §103(a) as being unpatentable over the Bryant reference in view of the Saxon reference and further in view of the Shaylor reference.

1 Claims 28, 29, and 30 were rejected under 35 U.S.C. §103(a) as being
2 unpatentable over the Bryant reference in view the Saxon reference, and further in
3 view of the Williams reference.

4 In overview, the objections have been overcome and the rejections have
5 been traversed in view of the following remarks. Claims 1, 3-8, 10-14, 17-21, 26,
6 28, and 30 have been amended for clarification to overcome the rejections.
7 Claims 2, 9, and 15 were canceled in our prior amendment. The Applicant
8 respectfully requests reconsideration and allowance of the subject application.
9 This Amendment is believed to be fully responsive to all issues raised in the
10 Office Action dated May 4, 2005.

11
12 **Claim Objections Under 37 CFR 1.75(c)**

13 Claims 2, 9, and 15 were objected to under 37 CFR 1.75(c) as being of
14 improper dependent form for failing to further limit the subject matter of a
15 previous claim. In order to expedite prosecution, claims 2, 9 and 15 have been
16 canceled. Therefore, the Applicant respectfully requests withdrawal of this
17 objection.

18
19 **Claim Objections Under 35 USC §112, second paragraph**

20 Claims 1-7 were objected to under 35 U.S.C. §112, second paragraph, as
21 being indefinite. Claims 1, 3-7 were amended as recommended by the Examiner
22 in our prior response entered by the Examiner and have been further amended by
23 the present response. Therefore, the Applicant respectfully requests withdrawal of
24 this objection.

Claim Rejections Under 35 USC §103(a)

Claims 1-6 and 8-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Saxon reference in view of the Williams reference. Claims 14-16, 18-26, and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Bryant reference in view of the Saxon reference. Claims 7 and 11-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Saxon reference in view of the Williams reference, in further view of the Shaylor reference). Claim 17 was rejected under 35 U.S.C. §103(a) as being unpatentable over the Bryant reference in view of the Saxon reference and further in view of the Shaylor reference. Claims 28, 29, and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Bryant reference in view the Saxon reference, and further in view of the Williams reference. For at least some of the reasons that follow, the Applicant respectfully disagrees that the subject matter of the above claims is obvious given the above cited references.

In overview, as stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Further, as stated in MPEP § 2143.01, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Therefore, "all words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

With this legal framework in mind, the Applicant traverses each of the rejections.

Rejection of Claims 1-6 and 8-10

Claims 1-6 and 8-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Saxon reference in view the Williams reference. Claims 1 and 8 are both independent claims. Claims 2 and 9 were canceled in our prior Amendment after the Final Action that was entered by the Examiner.

With respect to Claim 1, the Examiner contends that the Saxon reference describes "instantiating a queue for holding messages..." at Col. 4, lines 16-18. However, upon a closer review of the Williams reference, one will see that the

1 Saxon reference describes “a program 146 for creating threads of execution and a
2 program 146 for executing ‘wait’ instructions, such as an instruction to wait for
3 the completion of a program or thread of execution.” Col. 3, lines 3-6. The Saxon
4 reference further teaches that “all the threads share the address space of the user
5 process, and therefore the programs running in these threads can communicate
6 with one another.” Col. 3, lines 8-10. The Saxon reference then further describes
7 parameters that may be passed by the invoking thread to the invoked thread for use
8 as input by the new thread or output from the new thread. Col. 4, lines 16-18.
9 Because “the parallel threads share a common address space,” the variables,
10 “which will be shared by two or more threads, will be treated as global variables.”
11 Col. 4, lines 20-23. Thus, the portion cited by the Examiner describes the use of
12 global variables. Saxon’s teaching of using a global variable does not teach
13 having a “queue for holding messages” as recited in claim 1. In addition, the
14 portion (Col. 4, lines 16-20) cited by the Examiner also fails to teach “creating a
15 message at the first thread of execution” as recited in claim 1. Rather, the
16 Examiner cites the same description of the global variables again. Thus, the
17 Examiner contends that the global variables teach both having “a queue for
18 holding messages” and for “creating a message”. However, these are two separate
19 elements and can not possibly be taught by a general description of global
20 variables.

21 The Applicant agrees with the Examiners contention that Saxon is silent
22 with reference to “placing the reference into the second thread queue, wherein the
23 reference is usable by the second thread of execution to access the message.”
24 However, the Applicant disagrees with the Examiner’s contention that the
25 Williams reference teaches placing a reference to the message in the queue of the

1 second thread. The Examiner contends that because claim 1 of the Williams
2 reference recites a method for transferring data between a source process and a
3 destination process that this teaches asynchronously communicating between
4 threads using message queues. The Applicant respectfully disagrees. As stated in
5 our prior responses, the Williams reference does not even describe having a
6 thread, queue, or message. In addition, the Applicant disagrees with the
7 Examiner's contention that there is some teaching, suggestion, or motivation to
8 combine these references found either in the references themselves or in the
9 knowledge generally available to one of ordinary skill in the art. The Examiner
10 can not use the description of the present application to suggest that it now would
11 be obvious to combine these unrelated teachings.

12 With respect to independent Claim 8, the Examiner again cites the portion
13 in the Saxon reference describing one or more global variables for teaching
14 "creating a first thread queue for the first scripting thread" as recited in Claim 8.
15 Without repeating the above arguments, the Applicant disagrees that a description
16 of global variables teaches a queue. The Applicant does agree with the Examiner
17 that the Saxon reference is silent regarding "passing, to the second scripting
18 thread, the address for use by the second scripting thread to send messages to the
19 first scripting thread." However, similar to the argument above, the Applicant
20 disagrees that the Williams reference teaches this limitation and disagrees that
21 there is motivation to combine these references.

22 Thus, in summary, the Examiner has not cited any reference that teaches or
23 suggests the claimed invention. In fact, even if all of these references could be
24 combined, their teachings could not possibly suggest the present invention. In
25 addition, there is no suggestion or motivation to combine these references. Thus,

1 for at least one of the above reasons, the Applicant contends that the Saxon
2 reference, whether considered alone or with any permissible combination of prior
3 art of record, does not teach or suggest each limitation recited in independent
4 Claims 1 and 8. Therefore, the Applicant respectfully submits that the §103
5 rejections of independent Claims 1 and 8 is improper, and respectfully requests
6 reconsideration and withdrawal of this rejection.

7 Furthermore, the dependent Claims 3-6 of Claim 1 and dependent Claim 10
8 of Claim 8 include other limitations that are not taught or suggested by the prior art
9 of record. Therefore, for at least the above reasons, Applicant respectfully submits
10 that the §103 rejections of dependent Claims 3-6 and 10 is improper, and respectfully
11 requests reconsideration and withdrawal of this rejection.

12
13 **Rejection of Claims 14-16, 18-26, and 27**

14 Claims 14-16, 18-26, and 27 were rejected under 35 U.S.C. §103(a) as
15 being unpatentable over the Bryant reference in view of the Saxon reference.
16 Claims 14, 18, and 26 are all independent claims. Claim 15 has been canceled.

17 With respect to independent Claim 14, the Examiner contends that the
18 Bryant reference teaches a method for compiling a program having a plurality of
19 sections and creating a scripting thread for compiling each section. Col. 6, lines
20 23-55. The Applicant respectfully disagrees. The Bryant reference is directed at a
21 method for increasing the performance of interpreted languages in application
22 software, as described in the Summary. To best understand the Bryant reference,
23 it is helpful to understand the problem that it was attempting to solve. The
24 problem, as described in the background section of the Bryant reference, is that
25 when Perl code is used in a cgi-bin script, the perl code must be compiled every

1 time the cgi-bin script is run. Col. 2, lines 8-10. The cgi-bin is a library of cgi
2 scripts applications that can be executed by a HTTP server. Col. 1, lines 55-56.
3 Therefore, the Bryant reference teaches to move the code that was in individual
4 cgi-bin scripts into one Perl server daemon process. Col. 6, lines 64-65. Thus, the
5 individual cgi-bin scripts are replaced by an object file. The Perl server forks
6 itself creating a child process that runs the already compiled code for the specific
7 cgi-bin script. Col. 6, lines 47-49. Thus, the above portion (Col. 6, lines 23-56)
8 cited by the Examiner does not teach "creating, for each section of the program, a
9 scripting thread that executes a script for compiling the section, wherein the script
10 is independent of the program," as recited in Claim 14. The above cited portion
11 actually teaches the opposite, to combine all the scripts into one process. In
12 addition, the above cited portion does not teach that the "script is independent of
13 the program". Rather, the above cited portion teaches that the program is the
14 individual scripts.

15 The Applicant agrees with the Examiner's contention that the Bryant
16 reference is silent with reference to "creating a control thread to asynchronously
17 communicate with each of the scripting threads so that commands can be issued
18 from the control thread to the scripting threads in parallel" as recited in Claim 14.
19 However, the Applicant disagrees with the Examiner's contention that the Saxon
20 reference teaches this. The Saxon reference, described above, does not teach
21 issuing commands to the scripting threads in parallel. Rather, the Saxon reference
22 teaches to spawn one or more child processes and then wait for their completion if
23 necessary. Status may be returned from each of the child processes using global
24 variables. Claim 14 has been amended to clarify that the asynchronous
25 communication is via a plurality of message queues, which are not global

1 variables as described in the Saxon reference. In addition, the Applicant disagrees
2 with the Examiner's contention that there is some teaching, suggestion, or
3 motivation to combine these references found either in the references themselves
4 or in the knowledge generally available to one of ordinary skill in the art. Again,
5 the Examiner can not use the description of the present application to suggest that
6 it now would be obvious to combine these unrelated teachings.

7 With respect to independent Claims 18 and 26, the Examiner again cites the
8 portion in the Bryant reference describing combining the individual cgi-bin scripts
9 into one process so that any cgi-bin scripts written in Perl do not need to be
10 executed each time it is requested. Therefore, without repeating the above
11 arguments, the Applicant respectfully disagrees with the Examiner for the reasons
12 described above. Therefore, the Bryant reference does not teach "a script for
13 compiling each section of the program, wherein the script is independent of the
14 program", "wherein each section of the program is compiled under the direction of
15 the script executed by a scripting thread of the plurality", and "a control thread
16 executing on the computer for coordinating the activity of the scripting threads by
17 communicating asynchronously with the scripting thread" as recited in
18 independent Claim 18. Likewise, the Bryant reference does not teach each of the
19 limitations in independent Claim 26, such as "a script for compiling each section
20 of the program, wherein the script is independent of the program", and "the
21 control thread sends messages asynchronously to each of the plurality of scripting
22 threads to coordinate their activities." In addition, the Bryant reference does not
23 teach or suggest that the asynchronous communication is "via a plurality of
24 message queues" as recited in both Claims 18 and 26.

1 suggestion or motivation to combine the Shaylor reference with the Saxon
2 reference. Thus, for at least one of the above reasons, the Applicant contends that
3 the Saxon reference, whether considered alone or with any permissible
4 combination of prior art of record, does not teach or suggest each limitation recited
5 in Claims 7 and 11-13. Therefore, the Applicant respectfully submits that the
6 §103 rejections of Claims 7 and 11-13 is improper, and respectfully requests
7 reconsideration and withdrawal of this rejection.

8 9 **Rejection of Claim 17**

10 Claim 17 was rejected under 35 U.S.C. §103(a) as being unpatentable over
11 the Bryant reference in view of the Saxon reference and further in view of the
12 Shaylor reference. Because Claim 17 depends from independent Claim 14, the
13 arguments that apply to Claim 14 are also applicable to Claim 17. Thus, for at
14 least these reasons, Applicant respectfully submits that the §103 rejections of
15 Claim 17 is improper, and respectfully requests reconsideration and withdrawal of
16 this rejection.

17 18 **Rejection of Claims 28-30**

19 Claims 28, 29, and 30 were rejected under 35 U.S.C. §103(a) as being
20 unpatentable over the Bryant reference in view the Saxon reference, and further in
21 view of the Williams reference. Because Claims 28-30 depend from independent
22 Claim 26, the arguments that apply to Claim 26 are also applicable to Claims 28-
23 30. Thus, for at least these reasons, Applicant respectfully submits that the §103
24 rejections of Claims 28-30 is improper, and respectfully requests reconsideration
25 and withdrawal of this rejection.

Conclusion

Applicant has considered the other references cited by the Examiner in the Office Action. None of these references appear to affect the patentability of Applicant's claims. By the foregoing remarks, Applicant believes that pending claims 1, 3-8, 10-14, and 16-30 are allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the Applicant at the telephone number provided below.

Respectfully Submitted,

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